

## **REMARKS**

This paper is presented in response to the Office Action. No claims are canceled, amended or added in this paper. Claims 6, 12, 15 and 18 were canceled in a previous paper. Claims 1-5, 7-11, 13, 14, 16, 17, and 19-28 remain pending in this application.

Reconsideration of the application is respectfully requested in view of the aforementioned amendments and the following remarks. For the convenience and reference of the Examiner, the remarks of the Applicant are presented in the order in which the corresponding issues were raised in the Office Action.

### **I. General Considerations**

Applicant notes that the remarks, or a lack of remarks, set forth herein are not intended to constitute, and should not be construed as, an acquiescence, on the part of the Applicant: as to the purported teachings or prior art status of the cited references; as to the characterization of the cited references advanced by the Examiner; or as to any other assertions, allegations or characterizations made by the Examiner at any time in this case. Applicant reserves the right to challenge the purported teaching and prior art status of the cited references at any appropriate time.

### **II. Rejection of Claims 1-5, 7, 8, 11 and 28 under 35 U.S.C. § 102**

Applicant respectfully notes that a claim is anticipated under 35 U.S.C. § 102(a), (b), or (e) only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference. Further, the identical invention must be shown in as complete detail as is contained in the claim. Finally, the elements must be arranged as required by the claim. *MPEP* § 2131.

The Examiner has rejected claims 1-5, 7, 8, 11, and 28 under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 6,746,264 to Branch et al. ("*Branch*").<sup>1</sup> Applicant respectfully disagrees.

#### **a. claims 1-5**

In the rejection of claim 1, from which claims 2-5 depend, the Examiner has alleged that *Branch* discloses "a transceiver module 10 for use in a communications network, the module comprising: a cable receptacle capable of receiving one or more cable connectors; a movable pivot block 24 having a locking member 32 configured to allow removal of the module from within a host port, wherein movement of the pivot block manipulates the locking member in a manner so as to disengage the module from within the host port."

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<sup>1</sup> Because *Branch* is only citable under 35 U.S.C. § 102(e), Applicant does not admit that *Branch* is in fact prior art to the claimed invention but reserves the right to swear behind *Branch* if necessary to remove it as a reference.

As the foregoing makes clear however, the Examiner has failed to cite any specific portion of *Branch* in support of the rejection. Rather, the rejection made by the Examiner is little more than a vague assertion that *Branch* discloses the invention to which claim 1 is directed. Further, the Examiner has not identified which component(s) of *Branch* are purported to correspond to the claimed “cable receptacle.”

As well, the Examiner has failed to even assert, much less establish, that *Branch* teaches various other limitations of claim 1. For example, claim 1 requires, among other things, that “[the] movable pivot block [is] rotatably engaged with the cable receptacle ...” *Emphasis added*. However, the Examiner has not asserted, much less established, that *Branch* discloses this limitation in combination with the other limitations of claim 1. As another example, claim 1 also requires “a movable pivot block ... having a locking member that is configured to selectively engage a host port ...” *Emphasis added*. Again however, the Examiner has not asserted, much less established, that *Branch* teaches or suggests this limitation in combination with the other limitations of claim 1.

In light of the foregoing, Applicant respectfully submits that the Examiner has not established that *Branch* anticipates claim 1, at least because the Examiner has not established that each and every element as set forth in claim 1 is found in *Branch*, because the Examiner has not established that the identical invention is shown in *Branch* in as complete detail as is contained in claim 1, and because the Examiner has not shown that *Branch* discloses the elements of claim 1 arranged as required by that claim. Applicant thus respectfully submits that the rejection of claim 1, as well as the rejection of corresponding dependent claims 2-5, should be withdrawn.

**b. claims 7, 8 and 11**

Similar to claim 1, claim 7, from which claims 8 and 11 depend, requires “a movable pivot block rotatably engaged with the cable receptacle and having a locking member that is configured to selectively engage a host port, the pivot block being configured to allow removal of the module from within a host port, wherein movement of the pivot block manipulates the locking member in a manner so as to disengage the module from within the host port.”

With the foregoing in view, Applicant respectfully submits that the Examiner has failed to establish that *Branch* anticipates claim 7, for at least the reasons set forth in the discussion at II.a. above, and the attention of the Examiner is accordingly directed to such discussion. Applicant thus submits that the rejection of claim 7, as well as the rejection of corresponding dependent claims 8 and 11, should be withdrawn.

**c. claim 28**

In the rejection of claim 1, from which claims 2-5 depend, the Examiner has alleged that *Branch* discloses “a transceiver module, comprising a housing portion; a connector portion attached to the

housing portion and configured to removably receive one or more cable connectors; a pivot block 24 including a pivot arm that rotatably engages the connector portion, the pivot block being rotatable between a first pivot block position where the module is latched to a host port, and a second pivot block position where the module is unlatched from the host port.”

As the foregoing makes clear however, the Examiner has failed to cite any specific portion of *Branch* in support of the rejection. Rather, the rejection made by the Examiner is little more than a vague assertion that *Branch* discloses the invention to which claim 28 is directed.

Further, the Examiner has not identified which component(s) of *Branch* are purported to correspond to the claimed “housing portion,” “connector portion,” and “pivot arm.” Thus, Applicant is left to guess as to the position of the Examiner concerning the disclosure of *Branch* as such disclosure is purported to relate to claim 28. This much, Applicant respectfully declines to do.

In light of the foregoing, Applicant respectfully submits that the Examiner has not established that *Branch* anticipates claim 28, at least because the Examiner has not established that each and every element as set forth in claim 28 is found in *Branch*, because the Examiner has not established that the identical invention is shown in *Branch* in as complete detail as is contained in claim 28, and because the Examiner has not shown that *Branch* discloses the elements of claim 28 arranged as required by that claim. Applicant thus respectfully submits that the rejection of claim 28 should be withdrawn.

### **III. Rejection of Claims 13, 14, 16, and 17 under 35 U.S.C. § 103**

Applicant respectfully notes at the outset that in order to establish a *prima facie* case of obviousness, it is the burden of the Examiner to demonstrate that three criteria are met: first, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings; second, there must be a reasonable expectation of success; and third, the prior art reference (or references when combined) must teach or suggest all the claim limitations. *MPEP* § 2143.

The Examiner has rejected claims 13, 14, 16 and 17 under 35 U.S.C. § 103(a) as being unpatentable over *Branch* in view of US 5,901,263 to Gaio et al. (“*Gaio*”). Applicant respectfully disagrees.

In the rejection of claim 13, from which claims 14, 16 and 17 depend, the Examiner has alleged that *Branch* discloses “a SFP fiber optic transceiver module, comprising a housing portion; and a moveable pivot block 24, wherein movement of the moveable pivot lever disengages the module from within a host port and exertion of a pulling force on the moveable pivot lever permits the module to be withdrawn from the host port; a locking member 32, formed on the pivot block, the locking member

configured to selectively engage the module within the host port, and wherein the locking member is selectively disengaged by movement of the moveable pivot block by applying a force to a leading edge portion on the pivot block ...”

As the foregoing makes clear however, the Examiner has failed to cite any specific portion of *Branch* in support of the rejection. Rather, the rejection made by the Examiner is little more than a vague assertion that *Branch* discloses the invention to which claim 13 is directed. As well, the Examiner has not identified which component(s) of *Branch* are purported to correspond to the claimed “housing portion.”

Further, the Examiner has conceded that “Branch et al. do not disclose the connector having a printed circuit board having transceiver electronics and optics to convert optical signals into electrical signals or electrical signals into optical signals.” *Emphasis added.* Applicant respectfully notes at the outset that claim 13 does not recite, as the Examiner appears to suggest, a “connector having a printed circuit board.” *Emphasis added.* Rather, claim 13 recites “a housing portion containing a printed circuit board having transceiver electronics.” *Emphasis added.*

In light of the aforementioned concession, the Examiner goes on to allege that “... it would have been obvious to ... modify the module of Branch et al. by providing a circuit board to convert optical signals into electrical signals or electrical signals into optical signals as taught by Gaio et al.” However, the Examiner has failed to assert, much less establish the existence of, a motivation or suggestion to make the purportedly obvious combination.

In view of the foregoing discussion, Applicant respectfully submits that the Examiner has failed to establish a *prima facie* case of obviousness with respect to claims 13, 14, 16 and 17 at least because the Examiner has not established, or even asserted the existence of, a suggestion or motivation to make the purportedly obvious combinations, and because the Examiner has not established that the purportedly obvious combinations teach or suggest all the limitations of those claims. Applicant thus submits that the rejection of claims 13, 14, 16 and 17 should be withdrawn.

#### IV. Claims 9 and 10

Applicant notes that the cover page of the Office Action indicates that claims 9 and 10 have been rejected. However, the Examiner has provided no discussion of those claims in the Office Action. Notwithstanding such omission, Applicant submits that claims 9 and 10 are in allowable condition for at least the reasons set forth herein, and the rejection of those claims should accordingly be withdrawn.

**V. Allowable Subject Matter**

Applicant acknowledges with thanks the indications of the Examiner that claims 19-27 are allowed, and Applicant also wishes to thank the Examiner for the careful review of those claims.

Applicant submits the following comments concerning the Examiner's statements of reasons for the indication of allowable subject matter in the Office Action. In general, Applicant agrees with the Examiner that the inventions to which claims 19-27 are respectively directed are patentable over the cited references, but respectfully disagrees with the Examiner's statement of reasons for allowance as set forth in the Office Action.

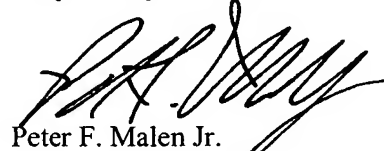
Particularly, Applicant submits that it is improper to characterize a single limitation, or subset of limitations, as constituting the basis for allowance of a claim. Rather, the patentability of a claim is properly determined with reference to the claim *as a whole*. Accordingly, Applicant does not concede that the reasons for allowable subject matter given by the Examiner are the only reasons that make, or would make, the claim allowable and Applicant does not make any admission or concession concerning the Examiner's statements in the Office Action concerning the allowability of claims 19-27 in view of the cited references.

**CONCLUSION**

In view of the remarks submitted herein, Applicant respectfully submits that each of the pending claims 1-5, 7-11, 13, 14, 16, 17, and 19-28 is in condition for allowance. Therefore, reconsideration of the rejections is requested and allowance of those claims is respectfully solicited. In the event that the Examiner finds any remaining impediment to a prompt allowance of this application that could be clarified in a telephonic interview, the Examiner is respectfully requested to initiate the same with the undersigned attorney.

Dated this 21<sup>ST</sup> day of March, 2006.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "P. F. Malen Jr.", written in a cursive style.

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